



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MERU

CRIMINAL CASE NO. 55 OF 2015

REPUBLIC..... PROSECUTOR

VERSUS

PAUL MUTWIRI MUNENE..... ACCUSED

RULING

The accused faces a charge of murder contrary to **Section 203** as read with **Section 204 of the Penal Code**. By the Notice of Motion dated 3/3/2016, he seeks to be released on bond.

The applicant deponed that he has been in remand since 2001 and the officer is nowailable; that he has a fixed abode in Kibirichia in Meru and is not a flight risk; that he will not interfere with witnesses.

The Investigation Officer did not oppose the application. This case is a retrial, the Court of Appeal having ordered so.

Though the State did not oppose the application for bond, this court nonetheless called for a pre-bail report to help it appreciate the situation in the community and accused's character.

In an application for bond, the paramount consideration is whether the accused will turn up for his trial. Other considerations are whether the accused will interfere with witnesses; the antecedents and character of the accused; the gravity of the offence and possible sentence.

I have read the pre-bail report. The victim herein was accused's own brother. The family is divided as to whether or not accused should be granted bond. The parents seem to have mellowed and have no objection to his release but his brother is against the release and paints the accused character in negative light, that he smokes bhang and a dangerous person to the community. The same sentiments were echoed by the community who are still hostile to his release. From the report, it is clear that the parents of accused are already getting compromised and his release would just worsen the situation. Secondly, accused's security cannot be guaranteed. His character is also put to question and for all the above reasons, I decline to grant the accused bond. He will remain in remand pending hearing of the case.

I appreciate that this is a retrial but the case will be given priority hearing.

It is so ordered.

DATED, SIGNED AND DELIVERED THIS 19TH DAY OF MAY, 2016.

R.P.V. WENDOH

JUDGE

19/5/2016

PRESENT

Mr. Mulochi for State

Mr. Igweta for Accused

Peninah/Ibrahim, Court Assistants

Accused, Present